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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/784,536	02/23/2004	David Wayne McMillan	26780/12D1	7747
23632	7590	10/18/2007		
SHELL OIL COMPANY P O BOX 2463 HOUSTON, TX 772522463			EXAMINER OMGBA, ESSAMA	
			ART UNIT 3726	PAPER NUMBER
			MAIL DATE 10/18/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/784,536

Applicant(s)

MCMILLAN ET AL.

Examiner

Essama Omgba

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 July 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 8-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 8-14 is/are rejected.
- 7) ☒ Claim(s) 15 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
2. Claims 8-14 are rejected under 35 U.S.C. 102(b) as being anticipated by Britton (US Patent 4,705,331) or Baugh (US Patent 5,074,712).

With regards to claims 8 and 12-14, Britton discloses a method of remotely installing a clamshell device (38a, 38b) around an element 58 having a diameter, wherein a clamshell tool 36 is positioned adjacent to the element, the clamshell tool carrying the clamshell device, and the clamshell tool, in an open configuration, is moved to position the clamshell device around the element (figures 3 and 4), and the clamshell tool is closed from the open configuration to a closed configuration to close the clamshell device around the element, the device surrounding the element (figure 5), see column 2, lines 28-39 and column 6, lines 21-25. Likewise Baugh discloses a method of remotely installing a clamshell device 30 around an element 10 having a diameter, wherein a clamshell tool (21, 22) is positioned adjacent to the element, the clamshell tool carrying the clamshell device, and the clamshell tool, in an open configuration, is moved to position the clamshell device around the element (figure 2), and the clamshell tool is closed from the open configuration to a closed configuration to close the clamshell device around the element, the device surrounding the element (figure 3), see column 2, lines 31-44. Applicant should note that the recitation "the clamshell device selected from the group consisting of vortex-induced vibration reduction devices and

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drag reduction devices", "a fairing" or "a stake" has not been given any patentable weight since there is no recited structure to differentiate the clamshell devices of Britton and Baugh from the recited devices. Furthermore the devices of Britton and Baugh could be considered drag or vortex-induced vibration reduction devices.

For claim 9, the hinged clamps of Britton and Baugh are considered to be two clamshell devices.

For claims 10 and 11, Applicant should note that it is inherent that the clamshell device disclosed by Baugh is a smooth sleeve since it is used to patch the pipe, and such a sleeve could be considered a floatation module.

Allowable Subject Matter

3. Claim 15 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

4. Applicant's arguments filed July 30, 2007 have been fully considered but they are not persuasive.

In response to Applicant's argument that Baugh's element 30 is "end plate 30", which could not be construed to be a clamshell device, the examiner submits that in as much as "element 30" of Baugh includes "a slot 31 with a curved top 32 which acts as a saddle to allow the clamp assembly 20 to be landed on the pipeline 10" (col. 2, lines 55-

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57) and since "End plate 30 and other structural members generally combine to form a housing 35 which is the main structural member of the clamp assembly 20" (col. 2, lines 60-62), it is reasonable for "element 30" to be considered a clamshell device as broadly claimed by Applicant.

In response to Applicant's argument that Britton's element 36 is "housing 36" which could not be construed to be a clamshell tool, the examiner submits that in as much as force exerting means are disposed within housing 36 and cooperate with housing 36 and the jaw members 38a and 38b to provide the clamping forces necessary for clamping the jaw members 38a and 38b to the tubular member 38 (col. 6, lines 46-51), it is reasonable for "housing 36" to be construed as the broadly claimed clamshell tool.

Conclusion

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of


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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Essama Omgba whose telephone number is (571) 272-4532. The examiner can normally be reached on M-F 9-6:30, 1st Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Bryant can be reached on (571) 272-4526. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Essama Omgba
Primary Examiner
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